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June 6, 2018

FILE NO: 68026.6

**Via Electronic Case Filing**

Hon. Steven I. Locke, U.S.M.J.  
United States District Court  
for the Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722

Re: *Capricorn Management Systems, Inc. v. GEICO, et al.*  
Case No. 2:15-cv-02926-DRH-SIL

Dear Judge Locke,

This firm represents defendant Government Employees Insurance Company (“GEICO”) in the subject civil action. We write jointly on behalf of GEICO and co-defendant Auto Injury Solutions, Inc. (“AIS”) (collectively, “Defendants”) to request an adjournment of the pretrial conference currently scheduled for Monday, June 18th, pending resolution of summary judgment practice and attendant clarity regarding what issues, if any, remain for trial.

When setting the June 18th pretrial conference, Your Honor anticipated that date would be rescheduled based upon summary judgment practice. “If summary judgment is pending, just let me know and request an adjournment.” Sched. Conf. Trans., docket no. 80, at 16:15–16 (July 19, 2017). “I fully expect you not to come to that [pretrial] conference.” *Id.* at 16:18–19.

On May 18th, the date specified in the Scheduling Order, docket no. 75, for commencement of summary judgment practice, Defendants jointly submitted a pre-motion letter to Judge Hurley, docket no. 92, seeking leave to file two potentially dispositive motions, either of which could render a trial unnecessary or at least substantially narrow the issues remaining for trial. Defendants’ pre-motion letter remains pending awaiting a decision by the Court.

Despite the fact that Defendants have timely commenced summary judgment practice in accordance with and as anticipated by the Scheduling Order, plaintiff Capricorn Management Systems, Inc. (“Capricorn”) nevertheless opposes the requested adjournment and insists that the pretrial conference proceed on June 18th.<sup>1</sup>

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<sup>1</sup> Counsel for Defendants and Capricorn conferred by e-mail and telephone this afternoon, and Capricorn confirmed its opposition to adjourning the pretrial conference.



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Further evidencing that this case is simply not ripe for pretrial, Capricorn first provided a proposed pretrial order to Defendants only late last night. It calls for a lengthy *fifteen* day trial, ignoring that Defendants' motions may eliminate the need for trial altogether or substantially reduce the number of issues and parties remaining for trial. Capricorn's proposal is also facially deficient, failing to include even basic elements, like deposition citations and proposed exhibits, required by Judge Hurley's individual practice rules.

Defendants respectfully submit that preparing a proposed pretrial order encompassing every possible issue that *might* remain for trial after summary judgment, and then conducting a pretrial conference on that basis, as Capricorn proposes, is not an efficient use of Court or party resources. Moreover, Defendants believe further settlement discussions, which the Scheduling Order contemplates will occur at the pretrial conference, are unlikely to be productive while summary judgment motions remain pending.

For the forgoing reasons, Defendants respectfully request that the pretrial conference currently scheduled for Monday, June 18th, be adjourned pending resolution of summary judgment practice, consistent with the Scheduling Order and Your Honor's guidance at the scheduling conference. Counsel are, of course, available to discuss this request at the Court's convenience.

Respectfully submitted,

/s/ Charles D. Ossola

Charles D. Ossola

cc: Counsel of Record (via CM/ECF)